

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

RADHA GEISMANN, M.D., P.C., individually)	
and on behalf of all others similarly situated,)	
)	
Plaintiff,)	
)	Case No.: 4:15-cv-00615-ERW
v.)	
)	
BE-THIN, INC., KEVIN EBERLY,)	
and JOHN DOES 1-10,)	
)	
Defendants.)	

**MEMORANDUM IN SUPPORT OF PLAINTIFF RADHA GEISMANN, M.D., P.C.'s,
individually and on behalf of all others similarly situated MOTION TO STAY BRIEFING
ON PLAINTIFF'S MOTION FOR CLASS CERTIFICATION**

Plaintiff RADHA GEISMANN, M.D., P.C., individually and on behalf of all others similarly situated, filed a motion for class certification contemporaneously with their Class Action Petition on March 2, 2015 in the Circuit Court of St. Louis County. Defendant BE-THIN, INC. was served the class certification motion with the petition on March 16, 2015. The class certification motion was filed in state court in an attempt to prevent the putative class action from potentially being mooted pursuant to *Damasco v. Clearwire Corp.*, 662 F.3d 891 (7th Cir. 2011) and other similar authorities¹. This case was removed to this Court on April 15, 2015 by Defendant. Plaintiff RADHA GEISMANN, M.D., P.C.'s, individually and on behalf of all

¹ See *Alpern v. UtiliCorp United*, 84 F.3d 1525 (8th Cir. 1996); *Weiss v. Regal Collections*, 385 F. 3d 337, 344 n. 12 (3d Cir. 2004); see *Jancik v. Cavalry Portfolio Servs.*, 2007 WL 1994026, at *2–3 (D. Minn. July 3, 2007) *Harris v. Messerli & Kramer, P.A.*, 2008 WL 508923, at *2–3 (D. Minn. Jan. 2, 2008) (same); *Johnson v. U.S. Bank Nat'l Assn.*, 276 F.R.D. 330, 333-335 (D. Minn. 2011) (same). See also *Lucero v. Bureau of Collection Recovery, Inc.*, 639 F.3d 1239, 1249 (10th Cir. 2011); *Mey v. Monitronics Int'l, Inc.*, 2012 WL 983766, at * 4-5 (N.D. W.Va. Mar. 22, 2012); *Hrivnak v. NCO Portfolio Mgmt., Inc.*, 723 F.Supp.2d 1020, 1029 (N.D. Ohio 2010); *McDowall v. Cogan*, 216 F.R.D. 46, 48-50 (E.D. N.Y. 2003).

others similarly situated wishes to maintain the status quo until after a Rule 16 conference has been held and after a case management order has been issued and discovery has been completed.

Plaintiff RADHA GEISMANN, M.D., P.C.'s, individually and on behalf of all others similarly situated requests the Court to order any briefing on the Class Certification motion (Doc. 6) to be stayed until after a Rule 16 Conference is held and after a case management order has been issued and discovery has been completed.

/s/ Max G. Margulis
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CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of April, 2015, I caused the foregoing to be electronically filed with the Court using the CM/ECF system and a courtsey copy was served on the Defendant Be-Thin, Inc.'s attorneys Jesse B. Rochman, #40494MO, Martin L. Daesch, #60712MO, SANDBERG PHOENIX & von GONTARD P.C., 600 Washington Ave., 15th Floor, St. Louis, MO 63101-1313, Phone: (314) 231-3332, Fax: (314) 241-7604, Email: jrochman@sandbergphoenix.com, mdaesch@sandbergphoenix.com by email.

/s/ Max G. Margulis